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CS/HB 961

2018 Legislature

1  
 2 An act relating to the Beverage Law; amending s.  
 3 561.42, F.S.; authorizing a malt beverage distributor  
 4 to give branded glassware to vendors licensed to sell  
 5 malt beverages for on-premises consumption; requiring  
 6 that the glassware bear certain branding; providing an  
 7 annual limit on the amount of glassware a distributor  
 8 may give to a vendor; prohibiting a vendor from  
 9 selling the branded glassware or returning it to a  
 10 distributor for cash, credit, or replacement;  
 11 requiring manufacturers, importers, distributors, and  
 12 vendors to maintain certain records; defining the  
 13 terms "case" and "glassware"; providing an effective  
 14 date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18 Section 1. Subsection (14) of section 561.42, Florida  
 19 Statutes, is amended to read:

20 561.42 Tied house evil; financial aid and assistance to  
 21 vendor by manufacturer, distributor, importer, primary American  
 22 source of supply, brand owner or registrant, or any broker,  
 23 sales agent, or sales person thereof, prohibited; procedure for  
 24 enforcement; exception.—

25 (14) The division shall adopt reasonable rules governing

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26 | promotional displays and advertising. Such rules may, ~~which~~  
27 | ~~rules shall~~ not conflict with or be more stringent than the  
28 | federal regulations pertaining to such promotional displays and  
29 | advertising furnished to vendors by distributors, manufacturers,  
30 | importers, primary American sources of supply, or brand owners  
31 | or registrants, or any sales agent or sales person thereof;  
32 | however:

33 |       (a) If a manufacturer, distributor, importer, brand owner,  
34 | or brand registrant of malt beverage, or any sales agent or  
35 | sales person thereof, provides a vendor with branded expendable  
36 | retailer advertising specialties such as trays, coasters, mats,  
37 | menu cards, napkins, cups, glassware ~~glasses~~, thermometers, and  
38 | the like, such items may be sold only at a price not less than  
39 | the actual cost to the industry member who initially purchased  
40 | them, without limitation in total dollar value of such items  
41 | sold to a vendor. However, a distributor that receives glassware  
42 | at no charge on a no-charge invoice from a malt beverage  
43 | manufacturer or importer may give such glassware to a vendor  
44 | licensed to sell malt beverages for on-premises consumption.  
45 | Each piece of glassware given to a vendor by a distributor must  
46 | bear a permanent brand name intended to prominently advertise  
47 | the brand. A distributor may not give a vendor more than 10  
48 | cases of glassware per calendar year per licensed premises. A  
49 | vendor that receives a gift of glassware from a distributor may  
50 | not sell the glassware or return it to a distributor for cash,

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51 credit, or replacement. A manufacturer or importer who sells or  
 52 gives glassware to a distributor, a distributor who sells or  
 53 gives glassware to a vendor, and such vendor, must maintain  
 54 records of such sale or gift of glassware.

55 1. These records must be maintained for three years by the  
 56 industry member. The records may be in any format so long as  
 57 they are available and legible to division personnel upon  
 58 request during normal business hours. A copy of any record  
 59 maintained or produced in compliance with this paragraph shall  
 60 be provided to each industry member who receives such glassware.  
 61 The copy shall be in a format accessible and readable by the  
 62 recipient and may not be provided in an electronic format that  
 63 would require proprietary software unavailable to the recipient.

64 These records must show:

- 65 a. The name and address of the recipient, the recipient's  
 66 employee or agent receiving the glassware;
- 67 b. The recipient's license number;
- 68 c. The date furnished, or given;
- 69 d. The description and quantity of glassware furnished, or  
 70 given;
- 71 e. The cost to the industry member determined by the  
 72 original purchaser's invoice price;
- 73 f. The charges to the recipient for the glassware, if any;  
 74 and
- 75 g. The name, license number, and address of the industry

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76 | member providing the glassware.

77 |       2. As used in this paragraph, the term:

78 |       a. "Case" means a box containing up to 24 pieces of  
 79 | glassware.

80 |       b. "Glassware" means a single-service glass container that  
 81 | can hold no more than 23 ounces of liquid volume.

82 |       (b) Without limitation in total dollar value of such items  
 83 | provided to a vendor, a manufacturer, distributor, importer,  
 84 | brand owner, or brand registrant of malt beverage, or any sales  
 85 | agent or sales person thereof, may rent, loan without charge for  
 86 | an indefinite duration, or sell durable retailer advertising  
 87 | specialties such as clocks, pool table lights, and the like,  
 88 | which bear advertising matter.

89 |       (c) If a manufacturer, distributor, importer, brand owner,  
 90 | or brand registrant of malt beverage, or any sales agent or  
 91 | sales person thereof, provides a vendor with consumer  
 92 | advertising specialties such as ashtrays, T-shirts, bottle  
 93 | openers, shopping bags, and the like, such items may be sold  
 94 | only at a price not less than the actual cost to the industry  
 95 | member who initially purchased them, and may be sold without  
 96 | limitation in total value of such items sold to a vendor.

97 |       (d) A manufacturer, distributor, importer, brand owner, or  
 98 | brand registrant of malt beverage, or any sales agent or sales  
 99 | person thereof, may provide consumer advertising specialties  
 100 | described in paragraph (c) to consumers on any vendor's licensed

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101 premises.

102 (e) A manufacturer, distributor, importer, brand owner, or  
103 brand registrant of malt beverages, and any sales agent or sales  
104 person thereof or contracted third-party, may not engage in  
105 cooperative advertising with a vendor and may not name a vendor  
106 in any advertising for a malt beverage tasting authorized under  
107 s. 563.09.

108 (f) A distributor of malt beverages may sell to a vendor  
109 draft equipment and tapping accessories at a price not less than  
110 the cost to the industry member who initially purchased them,  
111 except there is no required charge, and the distributor may  
112 exchange any parts that are not compatible with a competitor's  
113 system and are necessary to dispense the distributor's brands. A  
114 distributor of malt beverages may furnish to a vendor at no  
115 charge replacement parts of nominal intrinsic value, including,  
116 but not limited to, washers, gaskets, tail pieces, hoses, hose  
117 connections, clamps, plungers, and tap markers.

118 Section 2. This act shall take effect October 1, 2018.